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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/679,811	10/07/2003	Gordon Heck		3307

7590 06/17/2004

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EXAMINER

WOOD, KIMBERLY T

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 06/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n No.

10/679,811

Applicant(s)

HECK, GORDON

Examin r

Kimberly T. Wood

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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This is an office action for serial number 10/679,811, entitled Pivotal Cable Support, filed October 7, 2003.

Priority

Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 119(e) as follows: the application was not filed within 12 months of the filing date of the provisional application.

Oath/Declaration

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

The claim to the provisional application has an incorrect filing date of September 9, 2001. Please refer to the above denial of granting of the priority claim. Correction is required.

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Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by O'Brien et al. (OBrien) 5,142,809. Obrien discloses a support means/second component (26, 24) having a receptacle (where the spindle 97 is received within the support means, see figure 2) being a clamp, a cradle member/first component (20), and movable means (97) being a spindle, a frame (64, 66, and 56) including a base (22) and a pair of spaced apart posts (56, defined as a piece fixed firmly in an upright position as a stay or support).

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Jones 688,094. Jones discloses a support means (a) having a receptacle (b2) and a clamp (see figure 2), a cradle means (e), a movable means (e2) includes a spindle.

Claims 1, 2, and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Kitchen 4,551,939. Kitchen

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discloses a support means/second component (25 and 13) having a receptacle (25), a cradle member/first component (19), a movable means being a spindle (35) depending downwardly from a frame (15 and 33).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Obrien 5,142,809 in view of Jones 688,094, as discussed above. Obrien discloses all of the limitations of the claimed invention except for clamp comprising a yoke member, and a closure member. It would have been obvious to one having ordinary skill in the art to have modified Obrien to have substituted the clamp as taught by Jones for the purpose of providing a more secure and stable means of attachment allowing the device to attach cylindrical members.

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Claims 3 and 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kitchens 4,551,939 in view of Jones 688,094, as discussed above. Kitchens discloses all of the limitations of the claimed invention except for clamp comprising a yoke member, and a closure member. It would have been obvious to one having ordinary skill in the art to have modified Kitchens to have substituted the supports for that of a clamp as taught by Jones for the purpose of providing a more secure and stable means of attachment allowing the device to attach cylindrical members.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The prior art discloses conventional support members having cradles or and clamps.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly Wood whose telephone number is (703) 308-0539. The examiner can normally be reached on Monday-Thursday from 7:30 AM to 5:00 PM. Any inquiry of a general nature or relating to the status of this application should be

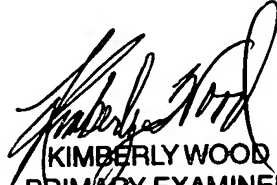
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directed to the Group receptionist whose telephone number is (703) 308-2168. The fax number for an Official Amendment or Response is (703) 872-9306. The fax number for an Unofficial Amendment or Response is (703) 308-3686.

Kimberly Wood
Primary Examiner
June 13, 2004



KIMBERLY WOOD
PRIMARY EXAMINER